

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,881

IN THE MATTER OF:

Served March 11, 2009

DEPENDABLE MEDICAL TRANSPORT INC.,)
Suspension and Investigation of)
Revocation of Certificate No. 533)

Case No. MP-2008-235

This matter is before the Commission on respondent's response to Order No. 11,748, served December 11, 2008.

I. BACKGROUND

Under the Compact, a WMATC carrier may not engage in transportation subject to the Compact if the carrier's certificate of authority is not "in force."¹ A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.²

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 533 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

Certificate No. 533 was rendered invalid on October 25, 2008, when the \$500,000 excess WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 11,647, served October 27, 2008, noted the automatic suspension of Certificate No. 533 pursuant to Regulation No. 58-12, directed respondent to cease transporting passengers for hire under Certificate No. 533, and gave respondent thirty days to replace the terminated endorsement and pay the \$50 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 533.

Respondent paid the late fee on November 21, 2008, and submitted a \$1.5 million primary WMATC Insurance Endorsement on December 10, 2008, but the effective date of the new endorsement is December 17, 2008, instead of October 25, 2008.

Under Regulation No. 58-14:

If a carrier's operating authority is suspended under Regulation No. 58-12 and the effective date of a

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

later-filed replacement Endorsement falls after the automatic suspension date, the carrier must verify timely cessation of operations in accordance with Commission Rule No. 28 and corroborate the verification with client statements and/or copies of pertinent business records, as directed by Commission order.

Order No. 11,748, served December 11, 2008, directed respondent to submit a written verification and pertinent business records in compliance with Regulation No. 58-14.

Because Commission records indicated that respondent transports passengers under the Medicaid Transportation Program of Montgomery County, Maryland, respondent also was directed to file an appropriate contract tariff for such service (unless respondent has permanently ceased such service) and written confirmation from an appropriate official of the Montgomery County Medicaid Program indicating whether respondent ceased operating under that program as of October 25, 2008.

Inasmuch as respondent had reestablished compliance with Regulation No. 58, however, the suspension was lifted in Order No. 11,829, served February 9, 2009, while the investigation continued.

II. RESPONSE

A letter from the Medicaid Operations Manager of the Montgomery County Department of Transportation states that respondent "submitted invoices for non-emergency wheelchair van services rendered to Medicaid transportation patients, through December 20, 2008, on behalf of the Montgomery County Medicaid Transportation Program." Reservation records submitted by respondent in response to Order No. 11,748 confirm that respondent continued operating on and after October 25, 2008, unabated.

Respondent does not dispute the record. Rather, respondent's president, Lawrence Ambam, explains that when he received the order to cease operations, he paid the late fee and "started working with [his] insurance broker on getting [respondent's] policy reinstated." Respondent paid the late fee on November 21, but the record shows that respondent's excess coverage policy was cancelled on September 25, effective October 25, for nonpayment of premium. The time for curing that default was prior to October 25. Respondent's president offers no explanation for waiting two months to begin curing the default and for operating in the interim underinsured.

In any event, the suspension order was quite clear in directing respondent not to operate "unless and until otherwise ordered by the Commission." No such order issued until February 9, 2009. By respondent's own admission, respondent received the suspension order on or before November 21, 2008, but respondent continued operating for at least another month anyway. Respondent's president does not address this issue in his statement.

III. ORDER TO SHOW CAUSE

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.³ Each day of the violation constitutes a separate violation.⁴ The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.⁵

Respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 533, for knowingly and willfully violating Article XI, Section 6(a), of the Compact and Order No. 11,647, by conducting operations under an invalid/suspended certificate of authority.⁶

THEREFORE, IT IS ORDERED:

1. That respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondent for knowingly and willfully violating Article XI, Section 6(a), of the Compact, and Order No. 11,647.

2. That respondent shall have thirty days to show cause why the Commission should not suspend or revoke Certificate No. 533 for respondent's willful failure to comply with Article XI, Section 6(a), of the Compact, and Order No. 11,647.

3. That respondent may submit within 15 days from the date of this order a written request for oral hearing, specifying the grounds for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS CHRISTIE AND BRENNER:



William S. Morrow, Jr.
Executive Director

³ Compact, tit. II, art. XIII, § 6(f)(i).

⁴ Compact, tit. II, art. XIII, § 6(f)(ii).

⁵ Compact, tit. II, art. XI, § 10(c).

⁶ See *In re Sams Health Care Servs., Inc.*, No. MP-08-005, Order No. 11,813 (Jan. 26, 2009) (same).